**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE J.B.KOSHY**

**WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929**

**Crl.Rev.Pet.No. 70 of 2000()**

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**CRA.148/1995 of ADDL.SESSIONS COURT, KOTTAYAM**
**CC.468/1993 of JUDL. MAGISTRATE OF FIRST CLASS, CHANGANACHERRY**

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**REVN. PETITIONER/1ST APPELLANT/1ST ACCUSED:**
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**PUSHPAKARAN,S/O.MADHAVAN,**
**PUTHETTUKULATHIL VEEDU,**
**THOTTACKAL BHAGOM, THURUTHY KARA,**
**VAZHAPPALY WEST VILLAGE, CHANGANACHERRY.**

**BY ADV. SRI.JOHN VARGHESE**

**RESPONDENT/RESPONDENT/COMPLAINANT:**
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**STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR,**
**HIGH COURT OF KERALA.**

**BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**J.B.KOSHY, J.**

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**Criminal R.P.No.70 OF 2000 ()**

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**Dated this the 26th day of September, 2007**

**O R D E R**

Revision petitioner is the 1st accused in C.C.No.468/1993 on the file of the Judicial First Class Magistrate Court, Changanacherry. Two persons were charge sheeted for the offence punishable under Section 324 read with Section 34 of the Indian Penal Code. The allegation was that on 26.2.1993, at about 6 p.m., an injury was inflicted on the left hand elbow portion of PW1 with a sword by the petitioner. It is alleged that PW1 sustained injuries on her forehead due to the pelting of stones by the 2nd accused. Both accused were convicted by the trial court under Section 324 read with Section 34 of the IPC and imposed sentence of rigorous imprisonment for six months. Appellate court acquitted the 2nd accused. Conviction and sentence of the 1st accused (revision petitioner) was confirmed.

2. PWs.1 and 5 are husband and wife. PW2 is a close friend. PW3 is only a attestor to Mahazer. PW4 an independent witness examined stated that he saw the incident 400 metres away while he was travelling in a country boat. He was residing about 5 kms. away from the place of occurrence. However, there is no basis for disbelieving PW1. But the wound certificate was not produced and the Doctor who examined was also not examined. So the extent of injury to PW1 is not proved. In these circumstances, even though we are not interfering in the conviction of the 1st accused in a revision application, we reduce the sentence. Instead of imprisonment of six months he is imposed with a fine of Rs.1,000/-. If the amount of fine is not paid, appellant is bound to undergo simple imprisonment for one month. The Revision petition is accordingly partly allowed.

**J.B.KOSHY, JUDGE**

**prp**

**J.B.KOSHY**

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**Criminal.R.P.70 OF 2000**

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**O R D E R**

**26th September, 2007**